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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Teiji Yutaka

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9862

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10/02/2006

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EXAMINER

STEVENS, THOMAS H

ART UNIT

PAPER NUMBER

2123

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,845

Applicant(s)

YUTAKA, TEIJI

Examiner

Thomas H. Stevens

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2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/17/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,9,13,17,21,25,29 and 33-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,9,13,17,21,25,29 and 33-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-5,9,13,17,21,25,29 and 33-37 were examined.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/17/2006 has been entered.

Section I: Non-Final Rejection

Claim Objections

3. Claims 1 (line 12), 17 (line 12), 33 (line 11), 34 (lines 10 and 11) and 37 (line 13) are objected to because of the following informalities: the phrase "the processing capability" where its first disclosed in each claim in question presents a possible antecedent problem; the Office suggest changing the article to "a processing capability". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 36 recites the limitation "the subordinate machine" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-5,9,13,17,21,25,29, 34,35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita (US Patent 5,404,557; hereafter Yamashita) in view of Fukuda et al., (US Patent 6,546,300; hereafter Fukuda) and in further view of Metz et al., (US Patent 5,978,855; hereafter Metz).

Yamashita teaches parallel data processing (title) with a first and second information processing (column 2, lines 16-17) but fails to teach processing capabilities and software program change request. Fukuda teaches production planning (title) with processing capabilities (column 9, line 66) while Metz teaches low speed data

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communications capacity (abstract) with the ability to change software request (column 40, line 2).

All three pieces of art are analogous since they teach data movement and manipulation.

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention was made to utilize the historical information data of Fukuda and the two-way low speed data communications of Metz in the data processor of Yamashita because Fukuda teaches a method to sufficiently perform production planning (column 2, line 16). Metz teaches a need for an interface between resident software and downloaded software that protects the network elements and maximizes network integrity (column 5, lines 9-11).

Claim 1. An emulation (Yamashita: column 17, lines 52-54) apparatus, operable within a first information (Yamashita: column 2, lines 16-17) processing apparatus, for enabling the first information (Yamashita: column 2, lines 16-17) processing apparatus to better execute a software program that was originally intended for execution by a second information (Yamashita: column 2, line 18) processing apparatus, said emulation (Yamashita: column 17, lines 52-54) apparatus comprising: determining means for determining, when the software program is being executed by the first information (Yamashita: column 2, lines 16-17) processing apparatus, whether the software program has requested a change of the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing

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apparatus; and adjusting means for changing, when said determining means determines that the software program has requested the change (Metz: column 40, line 2) of the processing capability, a value of a particular processing parameter in the first information (Yamashita: column 2, lines 16-17) processing apparatus to a value more compatible with execution of the software program based on a stored change (Yamashita: column 1, line 11 "saving instruction") parameter associated with the software program, the change in the value of the particular processing parameter thereby adjusting the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus to emulate the processing capability (Fukuda: column 9, line 66) of the second information (Yamashita: column 2, line 18) processing apparatus.

Claim 2. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 1, wherein said emulation (Yamashita: column 17, lines 52-54) apparatus is operable within an entertainment ("cable television" Metz: column 2, line 29) apparatus that includes a pair of processors operating in a master-slave relationship determined by the software program.

Claim 3. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 1, wherein said determining means determines whether the software program has requested a change of the processing capability (Fukuda: column 9, line 66) of the information processing apparatus by identifying whether a medium that stores the

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software program was originally intended for a host machine or for a subordinate machine.

Claim 4. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 1, wherein the software program includes second information (Yamashita: column 2, line 18) processing apparatus binary information intended for execution by the second information (Yamashita: column 2, line 18) processing apparatus, and when said determining mean: determines that the software program has requested the change (Metz: column 40, line 2) of the processing capability, said adjusting means changes the value of the processing parameter by converting the second information (Yamashita: column 2, line 18) processing apparatus binary information into further binary information that is executable by the first information (Yamashita: column 2, lines 16-17) processing apparatus.

Claim 5. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 1, wherein said adjusting means reads the change parameter (Fukuda: column 11, lines 1-4) recorded in a device selected from the group consisting of: an internal recording medium, a non-rewritable recording medium loaded into the information processing apparatus, and a rewritable recording medium loaded into the information processing apparatus, and said adjusting means changes the processing capability (Fukuda: column 9, line 66) based on the read change parameter (Fukuda: column 11, lines 1-4).

Claim 9. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 5, wherein said adjusting means selects the device from which the change parameter (Fukuda: column 11, lines 1-4) is read according to the following order of priority: (i) the rewritable recording medium, (computer hard disk) (ii) the non-rewritable recording medium, (e.g., RAM) and (iii) the internal recording medium (VCR).

Claim 13. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 1, wherein the particular processing parameter is a speed for processing an operation implemented by the software program, and said adjusting means adjusts the processing speed of the first information (Yamashita: column 2, lines 16-17) processing apparatus to a value more compatible with the software program.

Claim 17. An emulation (Yamashita: column 17, lines 52-54) apparatus, operable within a first information (Yamashita: column 2, lines 16-17) processing apparatus, for enabling the first: information processing apparatus to better execute a software program that was originally intended for execution by a second information (Yamashita: column 2, line 18) processing apparatus, said emulation (Yamashita: column 17, lines 52-54) apparatus comprising: determining means for determining, when the software program is being executed by the first information (Yamashita: column 2, lines 16-17) processing apparatus, whether the software program has requested a change of the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita:

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column 2, lines 16-17) processing apparatus; and adjusting means for, when said determining means determines that the software program has requested the change (Metz: column 40, line 2) of the processing capability, changing a particular functional configuration of at least part of the first information (Yamashita: column 2, lines 16-17) processing apparatus to a predetermined functional configuration more compatible with execution of the software program and for changing a value of a particular processing parameter in the at least part of the first information (Yamashita: column 2, lines 16-17) processing apparatus to a value more compatible with execution of the software program based on a stored change (Yamashita: column 1, line 11 "saving instruction") parameter associated with the software program, the change in the functional configuration and in the value of the processing parameter thereby adjusting the processing capability (Fukuda: column 9, line 66) of the at least part of the first information (Yamashita: column 2, lines 16-17) processing apparatus to emulate the processing capability (Fukuda: column 9, line 66) of the second information (Yamashita: column 2, line 18) processing apparatus.

Claim 21. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 17, wherein said adjusting means reads the change parameter (Fukuda: column 11, lines 1-4) recorded in a device selected from the group consisting of: an internal recording medium, a non-rewritable recording medium (i.e., ROM) loaded into the information processing apparatus, and a rewritable recording medium (i.e., RAM) loaded into the information processing apparatus, and said adjusting means changes

the processing capability (Fukuda: column 9, line 66) based on the read change parameter (Fukuda: column 11, lines 1-4).

Claim 25. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 21, wherein said adjusting means selects the device from which the change parameter (Fukuda: column 11, lines 1-4) is read according to the following order of priority: (i) the rewritable recording medium, (i.e., computer hard-drive) (ii) the non-rewritable recording medium (i.e., ROM), and (iii) the internal recording medium (i.e., VCR).

Claim 29. The emulation (Yamashita: column 17, lines 52-54) apparatus according to claim 17, wherein, when said determining means determines that the software program has requested the change (Metz: column 40, line 2) of the processing capability, said adjusting means adjusts the functional configuration of the said first information (Yamashita: column 2, lines 16-17) processing apparatus from its normal operating mode an emulation (Yamashita: column 17, lines 52-54) mode more compatible with execution of the software program.

Claim 34. A method of enabling a first information (Yamashita: column 2, lines 16-17) processing apparatus to better execute a software program that was originally intended for execution by a second information (Yamashita: column 2, line 18) processing

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apparatus, said method comprising: determining, when the software program is being executed by the first information (Yamashita: column 2, lines 16-17) processing apparatus, whether the software program has requested a change of the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus; and when it is determined that the software program has requested the change (Metz: column 40, line 2) of the processing capability, changing a value of a particular processing parameter in the first information (Yamashita: column 2, lines 16-17) processing apparatus to a value more compatible with execution of the software program based on a stored change parameter (Fukuda: column 11, lines 1-4) associated with the software program, the change in the value of the processing parameter thereby adjusting the processing capability (Fukuda: column 9, line 66) of the first information processing apparatus to emulate the processing capability (Fukuda: column 9, line 66) of the second information (Yamashita: column 2, line 18) processing apparatus.

Claim 35. A medium readable by a first information (Yamashita: column 2, lines 16-17) processing apparatus and having recorded thereon a software program having instructions for carrying out a method of enabling the first information (Yamashita: column 2, lines 16-17) processing apparatus to better execute a further software program that was originally intended for execution by a second information (Yamashita: column 2, line 18) processing apparatus, said method comprising: determining, when

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the further software program is being executed by the first information (Yamashita: column 2, lines 16-17) processing apparatus, whether the further software program has requested a change of the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus; and when it is determined that the further software program has requested the change (Metz: column 40, line 2) of the processing capability, changing a value of a particular processing parameter in the first information (Yamashita: column 2, lines 16-17) processing apparatus to a value more compatible with execution of the further software program based on a stored change (Yamashita: column 1, line 11 "saving instruction") parameter associated with the further software program, the change in the value of the processing parameter thereby adjusting the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus to emulate the processing capability (Fukuda: column 9, line 66) of the second information (Yamashita: column 2, line 18) processing apparatus.

Claim 37. In a first information (Yamashita: column 2, lines 16-17) processing apparatus, a processor that executes a software program for carrying out a method of enabling the first information (Yamashita: column 2, lines 16-17) processing apparatus to better execute a further software program that was originally intended for execution by a second information (Yamashita: column 2, line 18) processing apparatus, said method comprising: determining, when the further software program is being executed

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by the first information (Yamashita: column 2, lines 16-17) processing apparatus, whether the further software program has requested a change of the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus; and when it is determined that the further software program has requested the change (Metz: column 40, line 2) of the processing capability, changing a value of a particular processing parameter in the first information (Yamashita: column 2, lines 16-17) processing apparatus to a value more compatible with execution of the software program based on a stored change (Yamashita: column 1, line 11 "saving instruction") parameter associated with the further software program, the change in the value of the processing parameter thereby adjusting the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus to emulate the processing capability (Fukuda: column 9, line 66) of the second information (Yamashita: column 2, line 18) processing apparatus.

9. Claims 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita in view of Fukuda.

Yamashita teaches parallel data processing (title) with a first and second information processing (column 2, lines 16-17) but fails to teach processing capabilities. Fukuda teaches production planning (title) with processing capabilities (column 9, line 66).

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Both pieces of art are analogous since they teach data movement and manipulation.

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention was made to utilize the historical information data of Fukuda in the data processor of Yamashita because Fukuda teaches a method to sufficiently perform production planning (column 2, line 16).

Claim 33. An emulation (Yamashita: column 17, lines 52-54) part, operable within a first information (Yamashita: column 2, lines 16-17) processing apparatus, for enabling the first information (Yamashita: column 2, lines 16-17) processing apparatus to better execute a software program that was originally intended for execution by a second information (Yamashita: column 2, line 18) processing apparatus, said emulation (Yamashita: column 17, lines 52-54) part comprising: means for reading, when the software program is being executed by the first information (Yamashita: column 2, lines 16-17) processing apparatus and has requested a change, of the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus, contents of the request; means for reading a stored change (Yamashita: column 1, line 11 "saving instruction") parameter from a device selected from the group consisting of: an internal recording medium (i.e., computer hard drive) a non-rewritable recording medium (i.e., ROM) and a rewritable recording medium, the stored change (Yamashita: column 1, line 11 "saving instruction") parameter being associated with the software program; and means for changing a value of a particular

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processing parameter in the first information (Yamashita: column 2, lines 16-17) processing apparatus to a value more compatible with execution of the software program based on the read change parameter (Fukuda: column 11, lines 1-4), the change in the value of the processing parameter thereby adjusting the processing capability (Fukuda: column 9, line 66) of the first information (Yamashita: column 2, lines 16-17) processing apparatus to emulate the processing capability (Fukuda: column 9, line 66) of the second information (Yamashita: column 2, line 18) processing apparatus.

Claim 36. A medium readable by an information processing apparatus, the information processing apparatus including a host machine and an emulation (Yamashita: column 17, lines 52-54) part, the emulation (Yamashita: column 17, lines 52-54) part being operable to information processing apparatus to better execute a software program originally intended for execution by the subordinate machine, the software program being recorded on and being readable from the recording medium (e.g., VCR), said recording medium comprising: a first area (partitioning computer hard drive) which is readable by the information processing apparatus before execution of the software program and in which is recorded a type code indicating whether the software program is intended to be run on the host machine or on the subordinate machine(another personal computer); and a second area (partitioning computer hard drive) which is readable by the information processing apparatus during execution of the software program when the type code indicates that the software program was originally intended

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to be run on the subordinate machine (another personal computer) and in which is recorded a change parameter (Fukuda: column 11, lines 1-4), the change parameter (Fukuda: column 11, lines 1-4) defining a change in the value of a particular processing parameter in the host machine to a value more compatible with execution of the software the change in the value of the processing parameter thereby adjusting the processing capability (Fukuda: column 9, line 66) of the host machine to emulate the processing capability (Fukuda: column 9, line 66) of the subordinate machine.

Section II: Response to Applicants' Arguments

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10. Applicants are thanked for addressing this issue. Rejection is withdrawn.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715, Monday-Friday (8:00 am- 4:30 pm EST).

If attempts to reach the examiner by telephone are unsuccessful, please contact examiner's supervisor Mr. Paul Rodriguez 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

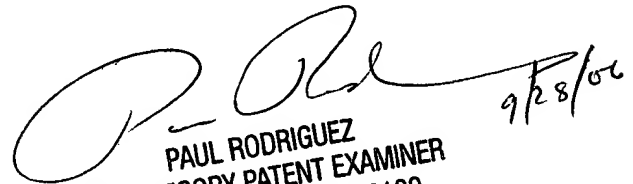
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August 23, 2006

TS


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9/28/06